

UNITED STATES OF DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

KANE MARCEAUX, GREG CORMIER,
SCOTT POIENCOT, NORBERT MYERS,
GABE THOMPSON, NOVEY STELLY,
ULETOM P. HEWITT, REGINA BRISCOE
AND ALEETA M. HARDING

CIVIL ACTION NO: 6:12-cv-01532

VERSUS

JUDGE RICHARD T. HAIK, SR.

LAFAYETTE CITY-PARISH CONSOLIDATED
GOVERNMENT; LAFAYETTE POLICE
DEPARTMENT THROUGH THE LAFAYETTE
CITY-PARISH CONSOLIDATED
GOVERNMENT; LESTER JOSEPH "JOEY"
DUREL, JR. IN HIS CAPACITY AS PRESIDENT
OF THE LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT; DEE
EDWARD STANLEY, INDIVIDUALLY AND IN
HIS CAPACITY AS CHIEF ADMINISTRATIVE
OFFICER OF THE LAFAYETTE CITY-PARISH
CONSOLIDATED GOVERNMENT; JAMES P.
"JIM" CRAFT, INDIVIDUALLY AND IN HIS
CAPACITY AS CHIEF OF THE LAFAYETTE
POLICE DEPARTMENT; AND GEORGE
"JACKIE" ALFRED, INDIVIDUALLY AND IN
HIS CAPACITY AS PATROL DIVISION
COMMANDER OF THE LAFAYETTE
POLICE DEPARTMENT

MAGISTRATE JUDGE PATRICK J. HANNA

REPLY TO PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT

NOW INTO COURT, through undersigned counsel, come Defendants, LAFAYETTE CITY-PARISH CONSOLIDATED GOVERNMENT ("LCG"), DEE EDWARD STANLEY, INDIVIDUALLY ("CAO Stanley"), JAMES P. "JIM" CRAFT, INDIVIDUALLY ("Chief Craft"), AND GEORGE "JACKIE" ALFRED, INDIVIDUALLY ("Major Alfred"), who briefly respond to Plaintiffs' Oppositions (Doc. 154 – 157) to Defendants' Motions for Summary Judgment (Doc. 141 – 144) as follows:

I. PLAINTIFFS SUBMIT NO ADMISSIBLE SUMMARY JUDGMENT EVIDENCE.

Just because one says it is raining does not make it so. There must actually be rain drops falling from the sky. So it is with motions for summary judgment, which must be supported with admissible evidence. If the non-movant is unable to oppose with affirmative evidence which supports his burden of proof, the motion should be granted. Unsubstantiated allegations do not suffice.¹ Plaintiffs' only substantive objections to Defendants' Motions consist of broad, conclusory allegations, lacking any supporting affidavit or citation to deposition testimony or other evidence. Plaintiffs simply failed to overcome Defendants' amply-supported Motions.

II. BURLINGTON IS INAPPLICABLE.

In their only real opposition to Defendants' position that the May 2012 transfers did not constitute adverse employment actions, Plaintiffs rely on *Washington v. Illinois Dept. of Revenue*, as cited by *Burlington Northern and Santa Fe Ry. Co. v. White*, for the proposition that the transfers resulted in alleged personal hardships. *Burlington* and *Washington* are inapposite, because *Burlington* addresses a plaintiff's standard to show an adverse employment action under Title VII. Plaintiffs do not have a Title VII claim! Rather, Plaintiffs' §1983 claims necessitate an *objective* determination of whether they suffered an adverse employment action, as discussed at length in Defendants' Motions, which cite United States Supreme Court and U.S. Circuit Court, Fifth Circuit, law applicable to First Amendment retaliation claims under §1983.

III. CONCLUSION

The motion for summary judgment is the "ultimate screen to weed out truly unsubstantial lawsuits,"² as best illustrated by this case. For the reasons exhaustively addressed in Defendants' Motions for Summary Judgment, which Plaintiffs wholly failed to support with anything more

¹ See *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994).

² *Crawford-El v. Britton*, 523 U.S. 574, 600 (1998).

than unsubstantiated, conclusory allegations, Plaintiffs' claims should be dismissed, with prejudice.

RESPECTFULLY SUBMITTED:

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INDIVIDUALLY, AND GEORGE "JACKIE"
ALFRED, INDIVIDUALLY

CERTIFICATE

This is to certify that on July 8, 2014, I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant or pro se defendant:

None.

s/Michael P. Corry

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